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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,438	11/14/2003	Garth Brown	264148001US1	9371
25096	7590	11/03/2004	EXAMINER	
PERKINS COIE LLP			SHAH, CHIRAG G	
PATENT-SEA			ART UNIT	
P.O. BOX 1247			PAPER NUMBER	
SEATTLE, WA 98111-1247			2664	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/714,438	Applicant(s) BROWN, GARTH	
	Examiner Chirag G Shah	Art Unit 2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/14/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |   |   |
|---|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6/29/04</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other:</p> |
|---|---|

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: Summary of Invention is missing. Appropriate correction is required.

### *Double Patenting*

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-11 rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-11 of prior U.S. Patent No. 6,678,273. This is a double patenting rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claim 12, 13, 17, and 18 rejected under 35 U.S.C. 102(e) as being anticipated by Salo et al (U.S. Patent No. 6,563,800), hereinafter, Salo.

Referring to claims 12, Salo discloses

establishing a connection between a network (402) and enterprise entities (plurality of enterprise network servers 403) [see fig. 4 and 5 and col. 11, lines 55 to col. 12, lines 18];

establishing a connection between the network (402) and subscriber entities (104), wherein each subscriber entity is assigned to an enterprise entity [see col. 11, lines 55 to col. 12, lines 18, data center 190 is coupled via network 402, links multiple heterogeneous remote devices 104 to one of enterprise network servers 303];

transmitting data between the enterprise entities (403) and their subscriber entities (104) [as disclosed in col. 6, lines 33-61, claim 1 and fig. 1a, subscribers securely and remotely access a centralized data center 190, which acts as an intermediary to facilitate subscriber information residing in an independent enterprise network 403 in real-time and furthermore, as disclosed in col. 11, lines 55-62, data center 190 retrieves data requested by remote access devices 104 from an enterprise network 403 and return the requested data, in real time, to the remote devices 104]; and

providing a service to an enterprise entity whereby the service uses data transmitted to the network from the enterprise entity via the established connection [as disclosed in fig. 1c, col 9, lines 66-col. 10, lines 11 and in claim 1, the data center 190, which is coupled to the network 402 includes a service

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subsystem 160, the service subsystem comprises a plurality of dedicated web servers and services a specific enterprise network and furthermore as disclosed in column 4, lines 9-31, data center offers a central location for accessing and processing information form various remote enterprise networks] .

Referring to claim 13, Salo discloses in column 8, lines 18-40 and figure 1c wherein the network uses an ATM protocol as claim.

Referring to claim 17, Salo discloses in figures 1b and column 7, lines 30 to column 8, lines 17, that BSC/MSC routes the calls between the subscribers 104 and IWF 108, IWF 108 is subsequently coupled to a system router, which interfaces PSTN. As disclosed before in column 11, lines 55 to column 12, lines 18, that the data center 190 retrieves data requested y remote access devices 104 from an enterprise network 403 and returns the requested data, in real time to the remote devices. Thus establishing that the service is forwarding data between the enterprise entity 403 and a telephone network (PSTN) as claim.

Referring to claim 18, Salo discloses in column 4, lines 9-31 wherein the service is archival storage of data of an enterprise entity [as disclosed in col. 4, lines 9-31, data center offers a central location for accessing and processing information form various remote enterprise networks] as claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15, 19, 20-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Salo in view of Farrell et al. (U.S. Patent No. 6,751,800) hereinafter, Farrell.

Referring to claim 15, Salo discloses in column 12, lines 1-43 that at the request of one of remote devices 104, data at an associated enterprise network server 403 is transferred over network 402 (which may be a public network, such as the Internet ) to data center 190. Salo fails to disclose wherein an enterprise entity can transmit data to subscriber entities through different service providers. Farrell et al discloses in fig. 4 and respective portions of the specification that an enterprise entity A and Enterprise entity B may communicate data to the remote employee or mobile user through different service providers. Therefore, it would have been obvious to modify the teachings of Salo to include the feature of transmitting data to subscriber entities via different service provider in order to monitor and collect network data for accounting purposes.

Referring to claim 19, Salo discloses in column 6, lines 33 to 53 that the remote access device may be connected to wireline or wireless network (e.g. cellular phones and/or PDA). Salo fails to disclose that wherein some subscriber entities are connected to the network indirectly through service providers. Farrell discloses in figure 4 that a mobile entity is directly connected through service provider. Thus, an entity such as a PDA as disclosed by Salo, which communicates with a mobile entity may be indirectly through the service provider as disclosed by Farrell in figure 4. Therefore, it would have been obvious to modify the teachings of Salo to include the feature that some subscribers are connected indirectly through the service provider in order to monitor and collect network data for accounting purposes.

Referring to claim 20, Salo discloses in figure 4 and in column 11, lines 63 to column 12, lines 5 of a method in a communication system for transmitting data from subscribers (remote

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devices 104) to enterprises (plurality of enterprise network servers 403) [Data center 190 links multiple heterogeneous remote devices 104 to one of enterprise network servers 403, at the request of one of remote devices 104, data at an associated enterprise network 403 is transferred over network 402 to data center 190, establishing that data is transmitted from subscribers to enterprises], the method comprising:

for each enterprise (plurality of enterprise network servers 403 of figure 4), transmitting the received data of the subscribers assigned to that enterprise into a network layer for the enterprise whereby the data for each enterprise is transmitted via a separate network layer [as disclosed in col. 9, lines 66 to col. 10, lines 11, the data center 190 includes a service subsystem 160, which comprises a plurality of dedicated web servers, wherein each server accesses and services a specific enterprise network. As further disclosed in col. 10, lines 48-67, after establishing subscriber authentication, the LS 142 located in the data center redirects the (subscriber) session with a URL that point to an ASP associated with a dedicated enterprise gateway server (EGS). In addition, as further established in figure 4, each enterprise server 403 receives data via a separate IP network layer (Note: IP protocol is a network layer protocol specifies addressing and routing of packet towards its ultimate destination as disclosed in column 7, lines 55-65) from network 402 to the dedicated enterprise gateway, thus data for each enterprise is transmitted via a separate network layer]

Salo fails to disclose receiving data of subscribers through multiple service providers using different sub-network layers.

Farrell et al discloses in fig. 4 and col. 5, lines 55 to col. 6, lines 11 that an enterprise entity A and Enterprise entity B communicate subscriber data from the remote employee or mobile user through different service providers (multiple ISP as shown in fig. 4) using different sub-network layers (such as Layer 2 Tunneling Protocol (L2TP), L2F, PPTP or IPSec). Therefore, it would have been obvious to modify the teachings of Salo to include the feature of receiving data of subscribers through multiple service providers using different data-link and physical sub-network layers in order to monitor and collect network data for accounting purposes.

Referring to claim 21, Salo discloses in figure 4 and in col. 7, lines 55-65 that each enterprise receives data via a separate IP protocol. According to the OSI protocol, IP protocol is a network layer protocol. Salo fails to disclose wherein the sub-network layers are the physical and data link layers of the OSI protocol. Farrell discloses in figure 4, col5, lines 55 to col. 6, lines 11 that the enterprises A and B communicate subscriber data from the remote employee or mobile user using different point-to-point and layer 2 sub-network layers. Thus, since according to the OSI protocol layer 1 having point to point connections corresponds to physical layer and layer 2 having L2TP and L2F corresponds to data link layers, the enterprises receives data via sub-network layers. Therefore, it would have been obvious to modify the teachings of Salo to include the feature of receiving data of subscribers using different data-link and physical sub-network layers in order to monitor and collect network data for accounting purposes.

Referring to claim 22, Salo discloses in col. 11, lines 55 to col. 12, lines 18, of transmitting data from associated enterprises (plurality of enterprises 403) to subscribers (heterogeneous remote devices 104) over network 402 to the data center 190 by receiving data of



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an enterprise through a network layer (IP protocol as disclosed in col. 7, lines 55-65) for the enterprise and the enterprises transmits the data to the service provider (data center 190) which associates with the subscriber as claim.

Referring to claim 23, Farrell et al discloses in the abstract a system for collecting and aggregating from network entities. Farrell discloses in column 23, lines 44-51 and in figure 4 wherein the aggregating ATM component (ATM technology subscribers) receives the data from the service providers as claim.

Referring to claim 24, Salo discloses in figure 1c and in column 8, lines 18-40 wherein a switching ATM components (a WAN topology and may employ ATM) transmits data to the enterprises as claim.

Referring to claim 25, Salo fails to disclose receiving data from an enterprise and forwarding the receiving data to a LAN dedicated to the enterprise. Farrell discloses in figure 4 of receiving data from an enterprise A or enterprise B and forwarding the data to a LAN 110' and 120' enterprise respectively. Therefore, it would have been obvious to modify the teachings of Salo to include the feature of forwarding data to LAN dedicated to the enterprise in order to monitor and collect network data for accounting purposes.

**Any response to this action should be mailed to:**

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**Or faxed to:**

(703)305-3988, (for formal communications intended for entry)

**Or:**

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(703)305-3988 (for informal or draft communications, please label "Proposed" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G Shah whose telephone number is 571-272-3144. The examiner can normally be reached on M-F 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs  
October 21, 2004

  
**Ajit Patel**  
Primary Examiner